

13281 U.S. PTO  
031804

Patent  
Attorney Docket No. 026350-091

19270 U.S. PTO  
10/802773  
031804

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

REQUEST FOR FILING CONTINUATION/DIVISIONAL  
APPLICATION UNDER 37 C.F.R. § 1.53(b)

Mail Stop PATENT APPLICATION

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Customer Number 21839

Sir:

This is a request for filing a ☐ continuation ☒ divisional application under 37 C.F.R. § 1.53(b) of the following pending application, by the following named inventor(s):

Application No. 09/971,020 Filed: October 5, 2001

Title: THEOBROMINE SYNTHASE POLYPEPTIDE OF COFFEE PLANT AND THE GENE  
ENCODING SAID POLYPEPTIDE

Inventor(s): Hiroshi SANO, Tomonobu KUSANO, and Nozomu KOIZUMI

- ☒ The entire disclosure of the prior application from which a copy of the oath or declaration is supplied herewith is considered as being part of the disclosure of the accompanying application and is hereby incorporated by reference therein.
- ☐ This application is being filed by less than all the inventors named in the prior application. In accordance with 37 C.F.R. § 1.63(d)(2), the Commissioner is requested to delete the name(s) of the following person or persons who are not inventors of the invention being claimed in this application.
- ☐ This application is being filed by more than all the inventors named in the prior application. In accordance with 37 C.F.R. § 1.63(d)(5), a new oath or declaration is enclosed, and the Commissioner is requested to add the name(s) of the following person or persons who are inventors of the invention being claimed in this application.

- ☐ Applicant(s) suggests Figure \_\_\_\_ for inclusion on the front page of the patent application publication and patent.
- ☒ Applicant(s) requests that the published application include the following assignment information:  
Nara Institute of Science and Technology, Ikoma City, Japan

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Attorney Docket No. 026350-091Prior Application No. 09/971,020

1. ☒ Enclosed is a copy of the prior Application No. 09/971,020 as originally filed on October 5, 2001, including copies of the specification, claims, drawings and the executed oath or declaration as filed.
2. ☐ Enclosed is a revised prior application and a copy of the prior executed oath or declaration as filed. No new matter has been added to the revised application.
3. ☒ Small entity status is hereby claimed.
4. ☒ The filing fee is calculated below ☒ and in accordance with the enclosed preliminary amendment.

CLAIMS					
	No. of Claims		Extra Claims	Rate	Fee
Basic Application Fee (1001)					\$ 770.00
Total Claims	3	MINUS 20 =	0	x \$18.00 (1202) =	\$ 0.00
Independent Claims	1	MINUS 3 =	0	x \$86.00 (1201) =	\$ 0.00
If multiple dependent claims are presented, add \$290.00 (1203)					
Total Application Fee					\$ 770.00
<input checked="" type="checkbox"/> Small Entity Status claimed - subtract 50% of Total Application Fee					\$ 385.00
Add Assignment Recording Fee of \$40.00 (8021) if Assignment document is enclosed.					
<b>TOTAL APPLICATION FEE DUE</b>					<b>\$ 385.00</b>

5. ☐ This application is being filed without a filing fee. Issuance of a Notice to File Missing Parts of Application is respectfully requested.
6. ☐ Charge \_\_\_\_\_ to Deposit Account No. 02-4800 for the fee due.
7. ☒ A check in the amount of \$ 385.00 is enclosed for the fee due.
8. ☐ Payment by credit card. Form PTO-2038 is attached.
9. ☒ The Director is hereby authorized to charge any appropriate fees under 37 C.F.R. §§ 1.16, 1.17 and 1.21 that may be required by this paper, and to credit any overpayment, to Deposit Account No. 02-4800. This paper is submitted in duplicate.
10. ☒ Cancel in this application original claims 1-15 of the prior application before calculating the filing fee.
11. ☒ New drawings are enclosed.
12. ☒ Applicant(s) claims priority under 35 U.S.C. § 119 of the following application(s):

Country	Application No.	Filing Date MM-DD-YYYY
Japan	2000-307149	10-06-2000

- ☒ The certified copy of the priority application  
☐ is enclosed.  
☒ was filed on January 24, 2003 in prior Application No. 09/971,020, filed on October 5, 2001, and acknowledged by the Examiner on December 31, 2003 in Paper No. \_\_\_\_\_.  
☐ has not yet been filed.
13. ☒ A preliminary amendment is enclosed.
14. ☒ An Information Disclosure Statement is enclosed.
15. ☐ A General Authorization for Payment of Fees and Petitions for Extensions of Time is enclosed.
16. ☒ Also enclosed is Declaration Pursuant to 37 C.F.R. 1.821-1.825;  
Paper and Computer-Readable Copies of Substitute Sequence Listing;  
Copy of executed Assignment previously recorded at Reel 012409/Frame 0368.
17. ☒ The power of attorney in the prior application is to Robert G. Mukai et al.
- a. ☒ The power appears in the original papers in the prior application.
- b. ☐ Since the power does not appear in the original papers, a copy of the power in the prior application is enclosed.
- c. ☐ Recognize as Associate Attorney \_\_\_\_\_
- d. ☒ Address all future communications to: (May only be completed by applicant, or attorney or agent of record.)  
Burns, Doane, Swecker & Mathis, L.L.P.  
Customer Number 2 1 8 3 9  
P.O. Box 1404  
Alexandria, Virginia 22313-1404

March 18, 2004

Date

By:

Robert G. Mukai

Robert G. Mukai

Registration No. 28,531

Address of signator:

Burns, Doane, Swecker & Mathis, L.L.P.  
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(703) 836-6620

- ☐ inventor(s)  
☐ assignee of complete interest  
☒ attorney or agent of record  
☐ filed under 37 C.F.R. § 1.34(a)